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No. 71-398

In the Supreme Court of the United States

OCTOBER TERM, 1971

RALPH B. THOMPSON, ET AL., ETC.,

Petitioners,

VS.

PEOPLE EX REL. ELMER J. HOFFMAN, NOW JAMES H. CLARK, COUNTY COLLECTOR, ETC., ET AL.,

Respondents.

On Petition For A Writ Of Certiorari To The Supreme Court Of Illinois

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PETITION FOR REHEARING OF THE ORDER DENYING CERTIORARI

RALPH B. THOMPSON and
MARGARET E. THOMPSON, his wife
Box 133
Hinsdale, Illinois 60521
Petitioners, Pro Se.

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Now come the Petitioners, Ralph B. Thompson and Margaret E. Thompson, pro se, pursuant to Supreme Court Rule 58 and petition for a rehearing of the order denying certiorari on December 7, 1971, and as grounds therefor, state as follows:

I. That other substantial grounds were available to petitioners although not previously presented in the above Petition For A Writ of Certiorari to the Illinois Supreme Court.

That the Petitioners overlooked and did not refer to the constitutional questions that arose "for the first time in and as a result of action in the Appellate Court", which made appeal from the Appellate Court to the Supreme Court a guaranteed right in the following instances: Ill. Const. 1970, Article VI, Sec. 4(c) (Article VI, Sec. 5, Ill. Const. 1870).

1. None of the Appellate Court judgments were final and entered by that court on the date the decisions were made in violation of Chap. 37, Sec. 41, Ill. Rev. Stat., in violation of the Due Process clause of the Fourteenth Amendment and contrary to *C. I. R.* v. *Bedford Estates,* 325 U.S. 283 (Rec. 3, page 3).

2. The Appellate Court exercised original jurisdiction, a power given to the Appellate Court by the Illinois Constitution of 1870, as amended, effective January 1, 1964, Art. VI, Sec. 7, 1970 Constitution Art. VI, Sec. 6, in every case to wit:

Thompson v. *County Board of School Trustees, et al.,* and *People Ex Rel. Thompson* v. *County Board of School Trustees, et al.,* Illinois Supreme Court No. 44360 and 44038, also 71-235 in this court. In the first school boundary case above the trial court ruled that Petitioner, Margaret E. Thompson lacked standing to sue. The Appellate Court ruled that this would be inconsistent, in other words Petitioner did have the right to sue, but, the court did not stop there, it ruled that the cause was not sufficient when the cause was not raised or passed upon by the trial court; this is exercising original jurisdiction.

In the second school boundary case, the trial court gave Merrill Gates, without his official title, individually, and County Board of Supervisors, no county, 30 days to answer, this was appealed to the Appellate Court on the grounds that it made a trial de novo, and denied Petitioner the records. The County Board of School Trustees did not appear in the trial court. The Appellate Court exercised original jurisdiction by dismissing the appeal on its own motion, without giving a reason, contrary to Chap. 37, Sec. 41, Ill. Rev. Stat., and leaving the question of "Where the State Superintendent is legal advisor to all school officers may the State's Attorney defend a school officer against that legal advice" unanswered.

In the Tax Objection Cases, which include both personal property and real estate taxes for the years 1967, 1968 and 1969, People Ex Rel. Elmer J. Hoffman, James H. Clark, et al., etc. v. Thompson, et ux, Illinois Supreme Court Nos. 44360 and 43928, also 71-234 in this Court, the trial Court had overruled a protest number claiming no case was filed. The Appellate Court exercised original jurisdiction since it was the first court to rule on the cases. The trial court refused to look at the court records. The Appellate Court dismissed the appeal on a motion that nothing was done by Petitioners after the taxes were paid under protest, which was false.

Petitioners submit that original jurisdiction in an Appellate Court is contrary to our complete court system, the Common Law, and a violation of the due process clause of the Fourteenth Amendment; that the above petitions to appeal as a matter of right must be heard by the Supreme Court of Illinois.

3. That the aforesaid judgments are beyond the powers of the Appellate Court in that all the above cases were

revenue related and appealable directly to the Illinois Supreme Court, Rule 301. The first school boundary case, *Thompson* v. *County Board of School Trustees, et al.,* Appellate Court No. 70-80, 265 N.E. 2d 168, was appealed directly to the Illinois Supreme Court, transferred to the Appellate Court along with a Motion by Petitioner to incorporate a certain Bond Issue in the records.

Petitioners submit that standing is a constitutional question, and that a bond issue is a revenue matter, that the Supreme Court of Illinois lacked the power to transfer the case.

The Appellate Court opinion, "The allegations that the proceedings of the "Boundary Study Steering Committee" included "the intent of detaching further territory from school district 86 and possibly from school district 53 causing tax losses to both districts . . . " are far too vague and conjectural to establish the right to bring this suit". Tax loss is a revenue related matter. The Appellate Court was incompetent and lacked jurisdiction to rule on the matter, that this is a constitutional question arising for the first time by the Appellate Court exercising original jurisdiction making review by the Illinois Supreme Court mandatory. That the manner in which taxes are assessed to support school districts making each district try to develop its own industrial park so it can have enough money per pupil, and the State giving more money for the support of education in one type of school district organization than in another is contrary to *Brown, et al.* v. *Board of Education of Topeka, et al.,* 347 U.S. 483. The State must provide equal education for its children.

In the second school boundary case in the Appellate Court No. 70-155, the entire case was revenue related, but, appealing cases directly to the Illinois Supreme Court was

futile. For the Petitioners to file Briefs in one court and the Respondents (Defendants), to answer in a different court is a distinct disadvantage.

There can be no question that the tax cases No. 70-220 in the Appellate Court were revenue related and that they should have been transferred to the higher Court. There can be no doubt that the Supreme Court of Illinois had jurisdiction of all these cases on appeal from the beginning.

4. If the Illinois Supreme Court had not acted on this case in a special session of that court a prior case, *Thompson* v. *Board of Commissioners of the Oak Brook Park District,* 71-761 now in this court, would have been the controlling factor. The same arguments about the appellate court's final orders and jurisdiction are in that case. It was completely filed before this one.

If the court acted on this case in a June Special Session to separate it from the above Park Board Case, this constitutes constructive fraud.

Final Order in this case entered June 24, 1971, printed in full Appendix, Page 1, Rec. 4, shows that it is certified as being a May Session, whereas the Notice to Petitioners (App. p. 3), shows that it was a June Session. Petitioners suggest that this final Order is a falsified document. The Illinois Supreme Court adjourned its May Session before Memorial Day.

II. There were also intervening circumstances of substantial or controlling effect.

1. On October 6, 1971, Mr. Howard K. Kellett, Clerk of the Appellate Court of Illinois, Second District, reduced the policy or rule of that court to writing for the first time; decisions or judgments of that court "become final contingent upon the decision of the Supreme Court of Illinois".

Petitioners submit that when it is the final judgments that are appealed from, this policy is in violation of the due process clause of the Fourteenth Amendment.

2. On November 18, 1971, Notice was sent from the Appellate Court that the Mandate in *Thompson* v. *Hoffman*, 71-234 was being sent to the trial court not only pursuant to rules but upon request of the office of the State's Attorney. Appendix, P. 4. There is no appellee.

Since the trial court judgments were not final in those cases, Petitioners appeared in the trial court on November 22, 1971 on the alleged Application for Judgment, Case No. C 71-604. There was no application, no protested taxes were included in the Judgment books. Since the trial court had ruled that it was the Collectors Case on August 12, 1970 in the case at bar, Petitioners submit that the trial court has never had jurisdiction of their tax objections nor that of any other taxpayer. Application has never been made, the collector's cases are non esse.

3. On December 13, 1971, upon discovering that there was an affidavit of the Collector filed with the Clerk of the Court stating that taxes paid under protest *were* in the Judgment books, when he had testified in court, under oath, that they *were not,* Petitioners ordered a short record to be prepared for appeal in Case No. C 71-604. There were words; the affidavit was falsified; if the Clerk certified the affidavit of the Collector as the application the clerk's certification would also be false. The Clerk's Office apologized, Appendix, P. 5. A Notice of Appeal was filed on December 20, 1971, but res judicata has to set in some place, how can you keep arguing the same issues in the same court between the same parties.

4. On November 22, 1971, in Case No. C 71-604, the trial court ruled in a violent controversy, that both the State's

Attorney and the Petitioners should write him a letter setting forth what was meant by a conference in Sec. 675A, Chap. 120, Ill. Rev. Stat. over Petitioner's objections that the matter had already been argued and was in this court. However, the Order entered states that there shall be a hearing between the Objectors and the State's Attorney's Office. Petitioners submit that a pretrial conference is a conference held by the court pursuant to Rules, Petitioners Petition (Appendix p. 10), and must be held in open Court.

Petitioners need the records and are supported in taking depositions and obtaining records by *Jackson* v. *People,* 9 Mich. 111, where it is stated, "and want of jurisdiction, when arising from matters not appearing in any way on the proceedings, may even be shown aliunde by affidavits."

5. The question of two or more taxing districts joining together to perform a single service when the boundaries of one district are not the same as the service area of the other has been sanctioned in the new 1970 Illinois Constitution. Art. VII, Sec. 10, Intergovernmental Cooperation, Appendix P. 7, and has also been sanctioned by case law, *People Ex Rel. Richard B. Ogilvie* v. *John W. Lewis Secretary of State,* No. 44488, Illinois Supreme Court as set forth in the Park Board Petition Case No. 71-761 Appendix, P. 15, "or two or more of the foregoing acting jointly." Neither the Appellate Court opinion in this case, nor the Ogilvie Case explore the ramifications of this joint action complained of by Petitioners in every case. It was presented and ruled upon in the trial court, ignored by the Appellate Court, has been before the administrative agencies and was ruled on by the State Superintendent of Public Instruction. The ruling by the Superintendent was in favor of Petitioners.

Petitioners submit that this is a substantial question that needs to be answered by this court. Judicial review of administrative action is on the effect on legal rights, this joint action is one of the major causes, since it denies the right to Petition the government for a redress of grievances, due process and equal protection of the law.

6. It has become apparent since the petition was filed that none of the trial court judgments were proper or final at the time of entry in these cases. In the tax cases the court had the power to "hear and determine the matter, according to the right of the case and enter judgment for any part of the taxes . . . " Petitioners submit that what is right and what is wrong is different from what is legal and what is illegal. What is legal might be what is right but what is right is not necessarily what is legal. This is supported by English Common Law where the King could convene a body to determine what was right. The trial court did have the duty to order the collector to distribute or refund the money. The trial court orders are all invalid, because they are not proper and final, Sec. 675, Chap. 120, Ill. Rev. Stat.

On the school boundary cases the trial court, pursuant to Sec. 275, Chap. 110, Ill. Rev. Stat., had the power to dismiss parties, to affirm or reverse the decision, to complete the record, to remand. It did not have power to dismiss the complaint or grant to an elected official the right to appear individually when named officially. The trial court has not affirmed the decisions of the County Board of School Trustees in either case rendering the judgments invalid. Both cases pursuant to Chap. 122, Sec. 7-7, Ill. Rev. Stat. are stayed by this appeal. To this point none of the cases included in this action has prevented any agency from any action.

7. On December 20, 1971, William V. Hopf, State's Attorney through Ralph J. Gust, Jr., Assistant State's Attorney returned Petitioners' Notice to him of the docket number and date in *Thompson* v. *Board of Commissioners of the Oak Brook Park District,* No. 71-761, he did not return the Petitions, when in March of 1971 the State's Attorney's office had agreed with Petitioners, that quite aside from whether Colin Couper could appear individually or not, that if the Park Board was expending Park District money for Couper's private expenses, they would have to replace the money.

Mr. Gust says, Appendix, P. 6, "The Park District has its own attorneys handling this matter." How does he know this? The opposing counsel in that case have claimed they were representing Colin Couper. To them Colin Couper is the defendant-appellee, and respondent, no one is representing the Park Board or Park District. This matter is in the tax objection cases, but the State's Attorney never notified the taxing districts, which shows complete bias and prejudice on the part of the courts. Petitioners did notify the proper parties, the State's Attorney did not notify anyone.

This is the same problem of representing Merrill Gates, individually in the trial court and switching to representing the County Board of School Trustees in the Appellate Court when they had not appeared in the trial court.

8. Petitioners have the right to a hearing of these cases on the merits by some Illinois Court either under the Administrative Review Act or under the Illinois Revenue Act, or both. At present there is no recourse against any action of these governmental agencies. Appeal to the Supreme Court of Illinois is a guaranteed right that cannot be denied, both in revenue cases and when constitutional questions arise on action of the Appellate Court.

Wherefore, for the above reasons we respectfully request that this petition for a rehearing be granted and that certiorari be granted, the judgments vacated and the case be remanded to the Supreme Court of Illinois directing that court to hear and answer the questions that will insure proper functioning of the Illinois Courts so that Petitioners may have a full hearing on all cases and obtain any records necessary including bank records or in the alternative that this Court grant rehearing of the order of denial, vacate that order, grant the petition and review the judgments below or any other thing this Court deems lawful and proper to insure relief as to Petitioners.

Respectfully submitted,

RALPH B. THOMPSON AND
MARGARET E. THOMPSON,
Petitioners, Pro Se

STATE OF ILLINOIS)
) SS.
COUNTY OF COOK)

Affidavit In Lieu Of Certificate Of Counsel

Margaret E. Thompson, being first duly sworn, deposes and says: that this petition for rehearing is presented in good faith and belief that Petitioners overlooked substantial grounds; that intervening circumstances have occurred to substantiate their claims and further that the petition is made for the above reasons only and not for delay and is restricted to the grounds specified in Rule 58(2).

.....

MARGARET E. THOMPSON,
For the Petitioners

Subscribed and Sworn to

Before me this ..... day of

December, 1971.

.....

Notary Public

APPENDIX A

UNITED STATES OF AMERICA

STATE OF ILLINOIS)
) ss.
SUPREME COURT)

At a Term of the Supreme Court, begun and held in Springfield, on Monday, the tenth day of May, in the year of our Lord, one thousand nine hundred and seventy-one, within and for the State of Illinois.

PRESENT:

Robert C. Underwood, Chief Justice

Justice Walter V. Schaefer

Justice Daniel P. Ward

Justice Joseph H. Goldenhersh

Justice Thomas E. Kluczynski

Justice Charles H. Davis

Justice Howard C. Ryan

William J. Scott, Attorney General

Robert G. Miley, Marshal

Attest: Justin Taft, Clerk

BE IT REMEMBERED, that, to-wit: on the 24th day of June, A.D. 1971, the same being one of the days of the term of Court aforesaid, the following proceedings were, by said Court, had and entered of record, to-wit:

PEOPLE, ex rel. ELMER J. HOFFMAN, now JAMES H. CLARK, County Collector, etc., et al.,

Respondents,

No. 44360 vs.

RALPH B. THOMPSON, et al., etc.,

Petitioners.

Redress of Grievances

And now, on this day, the Court having duly considered the motion by petitioners for reconsideration of the order denying motion for redress of grievances, and being fully advised of and concerning the premises;

IT IS HEREBY ORDERED that the motion by petitioners for reconsideration of the order denying motion for redress of grievances be, and the same is, denied.

APPENDIX B

State of Illinois

Office of

CLERK OF THE SUPREME COURT

Springfield

62706

June 14, 1971

Mrs. Margaret E. Thompson
P. O. Box 133
Hinsdale, Illinois 60521

Dear Mrs. Thompson:

Your motion by petitioners for reconsideration of the order denying motion for redress of grievances,
In re:

People ex rel. Elmer J. Hoffman,
etc., et al., respondents

vs.

Ralph B. Thompson, et al., etc.,
petitioners

received and filed June 14, 1971, under General Number 44360. Your motion will be presented to the Supreme Court on June 21, 1971, when it convenes for the June Session, and you will be advised as to its disposition.

Very truly yours,

Justin Taft
Clerk of the Supreme Court

APPENDIX C

State of Illinois
Appellate Court Second District
Elgin
60120

November 18, 1971

Howard K. Kellett
Clerk

312-695-3750

Hon. Robert M. Haenisch
Clerk of the Circuit Court
Court House
Wheaton, Il. 60187

Re: In Matter of the Application of Elmer J. Hoffman, County Collector for Judgment and Sale of Lands and Lots Delinquent in Payment of Taxes for the year 1967
(Ralph B. Thompson and Margaret E. Thompson, his wife, appellants)

Gen. No. 70-220

(T. C. Nos. C68-859-469
C68-859-470
C69-484-98
C69-484-99
C70-695-51)

Dear Mr. Haenisch:

In compliance with the provisions of Supreme Court rule 368 and at the request of the office of the States Attorney for DuPage county, I am herewith enclosing certified

copy of the final order of this Court in the above entitled cause.

Kindly receipt therefor on copy of letter enclosed and return.

Very truly yours,
Howard K. Kellett, Clerk

s

Margaret E. Thompson

Wm V. Hopf

Ralph J. Gust, Jr.

Blair Varnes

Mrs. Thompson,

In checking and rereading what I thought was the application, they are affidavits of the Co. Treas. Please accept my apology.

Circuit Clerk's Office
County Division
Marlene

HAPPY HOLIDAYS

December 14, 1971

APPENDIX D

WILLIAM V. HOPF
State's Attorney
DuPage County
Wheaton, Illinois 60187
General Number 682-7050

Edward W. Kowal
First Assistant

December 20, 1971

Mrs. Margaret E. Thompson
Box 133
Hinsdale, Illinois 60521

Dear Mrs. Thompson:

Enclosed are the documents which you have forwarded to our office. This letter is to notify you that we are not of counsel in the matter of *Margaret E. Thompson* v. *Board of Commissioners of the Oak Brook Park District of DuPage County, Illinois.*

The Park District has its own attorneys handling this matter.

Very truly yours,

Ralph J. Gust, Jr.
Assistant State's Attorney

RJG:pas
Encs.

PROPOSED 1970 CONSTITUTION FOR THE STATE OF ILLINOIS

* * *

ARTICLE VII

* * *

LOCAL GOVERNMENT

SECTION 10. INTERGOVERNMENTAL COOPERATION

(a) Units of local government and school districts may contract or otherwise associate among themselves, with the State, with other states and their units of local government and school districts, and with the United States to obtain or share services and to exercise, combine, or transfer any power or function, in any manner not prohibited by law or by ordinance. Units of local government and school districts may contract and otherwise associate with individuals, associations, and corporations in any manner not prohibited by law or by ordinance. Participating units of government may use their credit, revenues, and other resources to pay costs and to service debt related to intergovernmental activities.

(b) Officers and employees of units of local government and school districts may participate in intergovernmental activities authorized by their units of government without relinquishing their offices or positions.

(c) The State shall encourage intergovernmental cooperation and use its technical and financial resources to assist intergovernmental activities.

* * * * *

This section is new. It permits governments at all levels to cooperate in working out common problems. Thus, one local government can contract with another government or private parties to share services and divide the costs equitably.